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WORLD MINISTERIAL CONFERENCE ON
ORGANIZED TRANSNATIONAL CRIME
Naples, 21-23 November 1994

Provisional annotated agenda and proposed organization of work

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Annotations

1. Opening of the Conference

The Conference will be convened on Monday, 21 November 1994, at 10.30 a.m.

2. Election of officers

In accordance with established practice, the Conference may wish to elect five officers: a President, three Vice-Presidents and a Rapporteur.

On the basis of previous practice, and taking into account General Assembly decision 33/417 on the organization of the work of United Nations bodies, it is urged that the regional groups start consultations on the nomination of candidates to fill these elective posts well in advance of the Conference, with a view to agreeing on a slate of candidates equal to the number of positions to be filled, thus allowing all officers of the Conference to be elected by acclamation and dispensing with the requirement of a secret ballot.

3. Adoption of the agenda and organization of work

(a) Adoption of the agenda

The provisional agenda for the Conference was prepared in accordance with Economic and Social Council resolutions 1993/29 of 27 July 1993 and 1994/12 of 25 July 1994, taking into account General Assembly resolution 48/103 of 20 December 1993.

In 1985, the General Assembly, in its resolution 40/32 of 25 November 1985, approved the Milan Plan of Action,[1] adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as a useful and effective means of strengthening international cooperation in crime prevention and criminal justice. The Milan Plan of Action recognized the international dimensions of organized crime and the need for a concerted response from the community of nations to combat its various forms. It also emphasized that such forms of crime could hamper the political, economic, social and cultural development of peoples and threatened peace, stability and security.

In 1990, within the framework of its topic III, "Effective national and international action against: (a) organized crime; (b) terrorist criminal activities," the Eighth Congress examined the problem of organized transnational crime and made a number of recommendations. In particular, the Congress also adopted a set of guidelines against organized crime in its resolution 24,[2] which were welcomed by the General Assembly in its resolution 45/121 of 14 December 1990. The Assembly, in its resolution 45/123 of 14 December 1990, also urged Member States to give favourable consideration to the implementation of these guidelines and invited them to make available to the Secretary-General the provisions of their national legislation relating to organized crime and money-laundering. Moreover, on the recommendation of the Congress, the General Assembly took some substantive steps towards strengthening international cooperation by adopting the Model Treaties on Extradition, on Mutual Assistance in Criminal Matters, on the Transfer of Proceedings in Criminal Matters and on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released (resolutions 45/116, 45/117, 45/118 and 45/119 respectively).

Pursuant to the invitation in General Assembly resolution 45/108 of 14 December 1990, the Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal

Justice Programme was held at Versailles from 21 to 23 November 1991. The General Assembly, in its resolution 46/152 of 18 December 1991, approved the report of the Ministerial Meeting and adopted the proposed statement of principles and programme of action (see resolution 46/152, annex) in which, inter alia, the establishment of the Commission on Crime Prevention and Criminal Justice was recommended.

On the recommendation of the Commission at its first session, the Economic and Social Council adopted resolution 1992/22 of 30 July 1992, by which it determined that one of the priority themes that should guide the work of the Commission and the United Nations crime prevention and criminal justice programme would be "national and transnational crime, organized crime, economic crime, including money-laundering, and the role of criminal law in the protection of the environment". The Council also adopted resolution 1992/23 of 30 July 1992, in which it took note of the recommendations (see Council resolution 1992/23, annexes I and II) of two ad hoc expert group meetings held in 1991 at Smolenice, Czechoslovakia (now Slovakia), and at Suzdal, Russian Federation and requested the Secretary-General to continue the analysis of the impact of organized criminal activities upon society at large. Also at its first session, the Commission adopted resolution 1/2,[3] by which it requested the Secretary-General to examine the possibility of coordinating efforts made at the multilateral level against the laundering of proceeds of crime and related offences, and to propose means for rendering technical assistance to requesting Member States in drafting legislation, training law enforcement personnel, and developing regional, subregional and bilateral cooperation.

On the recommendation of the Commission at its second session, the Council adopted resolution 1993/29 of 27 July 1993, in which it requested the Secretary-General to organize the World Ministerial Conference on Organized Transnational Crime and invited States to be represented there at the highest possible level. In paragraph 2 of the same resolution, the Council accepted with appreciation the offer of the Government of Italy to act as host for the Conference. Also on the recommendation of the Commission, the Council adopted resolution 1993/30 of 27 July 1993, in which it welcomed the initiative of the Government of Italy and the International Scientific and Professional Advisory Council in organizing, under the auspices of the Crime Prevention and Criminal Justice Branch, the International Conference on Preventing and Controlling Money-laundering and the Use of the Proceeds of Crime: a Global Approach.

In its resolution 48/103 of 20 December 1993, the General Assembly expressed its support for the World Ministerial Conference and called upon States to be represented at the Conference at the highest possible level. It also requested the Secretary-General to submit the conclusions and recommendations of the Conference to the General Assembly at its forty-ninth session.

On the recommendation of the Commission on Crime Prevention and Criminal Justice at its third session, the Economic and Social Council adopted resolution 1994/12 of 25 July 1994, in which it commended the work done by the Coordination Committee established by the Government of Italy in preparation for the World Ministerial Conference and reiterated its request to all States to be represented at the Conference at the highest possible level. It also decided that the document annexed to that resolution was to be used as a basis for the substantive discussion of the objectives of the Conference and requested the Secretary-General to submit to the Conference background documents on each of its objectives, in order to assist the Conference in its deliberations. Accentuating the priority attached to international cooperation against organized transnational crime, the Council also adopted resolutions 1994/13 of 25 July 1994 on the control of the proceeds of crime and 1994/14 of 25 July 1994 on criminal justice action to combat the organized smuggling of illegal migrants across national boundaries, while the Commission adopted resolution 3/2[4] on the international traffic in minors.

(b) Proposed organization of work of the Conference

The proposed organization of work of the Conference, which is contained in the annex to the present document, has been prepared in pursuance of relevant resolutions and decisions of the General Assembly and the Economic and Social Council in order to facilitate consideration of the agenda items within the time available and in accordance with the conference services available at the meeting site.

The resources available to the Conference will allow two plenary meetings and, as required, two meetings of the Committee of the Whole to be held each day.

Pursuant to paragraph 1 of Economic and Social Council resolution 1993/29, the Conference will hold a two-day general debate on items 4 to 9 of the provisional agenda. To plan for the efficient conduct of the general debate, it is proposed that the list of speakers be opened at the United Nations Office at Vienna, Crime Prevention and Criminal Justice Branch (Vienna International Centre, Room E-1233; telephone (+43-1) 21131-4269 or (+43-1) 21131-4272; facsimile (+43-1) 2092599) on Monday, 31 October 1994, and closed at 6 p.m. on Monday, 21 November. Following past practice, as endorsed by the General Assembly, statements made during the general debate will be limited to no more than 15 minutes for representatives of States and 10 minutes for other participants. Delegations wishing to have their statements circulated to all participants are requested to provide 300 copies to the Secretariat, which will arrange for their circulation in the language or languages received.

In order to arrive at conclusions and recommendations, which, in accordance with General Assembly resolution 48/103, are to be submitted by the Secretary-General to the General Assembly at its forty-ninth session for appropriate consideration and action, the Conference may wish to establish a committee of the whole, which will start its work in the afternoon of the first day of the session.

Documentation

Provisional annotated agenda and proposed organization of work

4. Problems and dangers posed by organized transnational crime in the various regions of the world

In accordance with paragraph 1, subparagraph (a), of Economic and Social Council resolution 1993/29, the Conference is expected to examine the problems and dangers posed by organized transnational crime in the various regions of the world.

The Conference will be expected to take stock of the problems and dangers posed by organized transnational crime throughout the world. Organized criminal activity is no longer affecting developed regions only. Recent evidence has shown that developing countries are encountering significant problems created by the emergence of criminal groups and their activities. States are confronted by groups engaging in a variety of criminal activities, often moving away from more "traditional" endeavours, such as illicit drug production and trafficking, into equally, or more, lucrative areas that attract less attention. In other cases, criminal groups are diversifying their activities by reorganizing their operations in a more sophisticated fashion, limiting the use of force and violence and turning to other ways of persuasion. Organized crime, which is adapting its operations to the new political and economic realities, taking full advantage of the efforts made by many Governments to open up their national borders to free trade and to improve the competitiveness of their national economies, poses a long-term threat to sustainable and democratic development.

Because of their vulnerability and their untapped resources, developing countries and countries in transition are being targeted by organized criminal groups operating across borders. Such criminal groups are taking advantage of the urgent need for foreign investment capital experienced by Governments trying to reform their national economies along the lines of free-market principles. This is occurring at a time when institutions are either young or in the process of being established. Often, the sophisticated modus operandi of these groups is no match for criminal justice systems in transition, which were previously totally unfamiliar with organized criminal activities. The need for foreign capital to give new life to the economy and assist countries in entering today's competitive and demanding global market frequently obscures the long-term threat posed by the investment of criminal proceeds. Criminal groups are keen to enter economies in transition, not only because of their potential, but also because of the decreased risks involved. The advantages that such groups enjoy, owing to the power they have acquired, the sizeable amounts of money at their disposal and their ability to eliminate competition through intimidation and violence, make risks that would daunt any legitimate business more readily acceptable. The consolidation of the power of criminal groups places in grave danger the growing economies of the countries in transition, particularly in terms of their future development, their competitiveness in the international arena, and their stability.

Organized criminal groups are also forming new alliances spanning all regions of the world. Their operations are expanding in activities and commodities that previous geopolitical balances made inaccessible. Recent events suggest that organized criminal groups have already obtained strategically sensitive materials and technology. These materials and technology, which are bought or bartered at quite favourable prices, may find their way into the possession of terrorist groups, in return for the protection of organized criminal operations. The ensuing threat to global peace, security and international relations warrants an immediate response by the world community, for more effective preventive action. The Conference will provide a forum for Governments, represented at the highest possible level, to exchange information and experiences. A thorough assessment of the various issues related to the identity, extent and consequences of modern organized transnational crime will help States come to terms with the actual dimensions of the problem and thus contribute to the attainment of the other objectives of the Conference.

Documentation

Background document on problems and dangers posed by organized transnational crime in the various regions of the world (E/CONF.88/2)

5. National legislation and its adequacy to deal with the various forms of organized transnational crime; appropriate guidelines for legislative and other measures to be taken at the national level

In accordance with paragraph 1, subparagraph (b), of Economic and Social Council resolution 1993/29, the Conference is called on to consider national legislation and evaluate its adequacy to deal with the various forms of organized transnational crime and to identify appropriate guidelines for legislative and other measures to be taken at the national level.

The Conference would thus be expected to examine the parameters that could make national legislation more adequate to cope with the various forms of organized transnational crime. National approaches to the prevention and control of organized transnational crime vary considerably. The reasons for these differences range from perceptions as to the actual size of the problem and the threat that organized criminal groups pose, to the particular features of legal systems, including legal theory and judicial practice. Differences in national legislative and other measures facilitate the transnationalization of organized crime, significantly increasing the capacity of criminal groups to shift their operations

across national borders in order to evade detection and prosecution, and thus continue to maximize their profits with impunity.

In the effort to prevent and control organized transnational crime, national authorities are often confronted by obstacles created by the flexibility and versatility of the modus operandi of the perpetrators. Added to these characteristics are the increasing diversification of operations and the restructuring capacity of criminal groups, following modern business techniques and retaining the best available professional advice. The broad range of activities in which organized transnational crime is involved has exposed current limitations and constraints. When national legislation on organized crime does exist, it may often become obsolete. Measures to modernize legislation, the establishment of regulatory mechanisms to supplement it and the criminalization of certain forms of behaviour to avoid gaps in legislation appear essential. National approaches to organized transnational crime should be guided by present realities. Based on that premise, national authorities would be able to prevent and control the various forms of organized criminal activity more effectively by bearing in mind the effect of their efforts beyond national borders. The limited reach of national legislation or the conflicts of jurisdiction that allow transnational offenders to escape justice are often cited as impediments to effective action against organized criminal groups. These impediments can be lessened by initiatives aimed at making national legislation and other mechanisms more compatible with those of other countries. The Conference could provide guidelines on how compatibility can be achieved, and how a thorough process of harmonization could be set in motion, in order to improve international cooperation and eliminate safe havens. Moreover, the Conference could promote acceptance of the principle that cooperation and the exchange of reliable information among national authorities can prove extremely valuable in policy formulation and planning and could suggest appropriate organizational procedures and mechanisms to that end.

Documentation

Background document on national legislation and its adequacy to deal with the various forms of organized transnational crime; appropriate guidelines for legislative and other measures to be taken at the national level (E/CONF.88/3)

6. Most effective forms of international cooperation for the prevention and control of organized transnational crime at the investigative, prosecutorial and judicial levels

In accordance with paragraph 1, subparagraph (c), of Economic and Social Council resolution 1993/29, the Conference is called on to identify the most effective forms of international cooperation for the prevention and control of organized transnational crime at the investigative, prosecutorial and judicial levels.

The existing and most commonly used cooperative arrangements would form a basis for analysis. In reviewing their principal characteristics and evaluating their effectiveness, the Conference will be expected to consider issues such as the lack of coordination among the agencies or departments concerned, or the time-consuming procedures often required, that impede a prompt and effective reaction to organized transnational crime. This particular component of the Conference's mandate is evidence of a specific concern with respect to the operational level of international cooperation. There seem to be two major considerations in this regard: cases where efforts against organized transnational crime are frustrated because of obstacles diminishing the effectiveness of bilateral agreements on mutual legal assistance or extradition; and cases where bilateral arrangements do not exist or cannot be concluded. A related issue concerns those situations where existing bilateral agreements become inoperative because of the new techniques used by organized criminal groups.

The detection, investigation, prosecution and adjudication of organized transnational crime are laborious and complex activities. Securing evidence often requires the cooperation of authorities from many countries. The complexity of these endeavours, coupled with the difficulties encountered when different legal systems are involved, place enormous pressures on investigative, prosecutorial and judicial authorities. The processing of organized transnational crime cases is frequently delayed, or comes to a standstill, partly because of difficulties in cross-border communications. In many cases, these problems are due to the failure to identify the authority that is competent to provide assistance. On other occasions, legal issues are involved, hindering joint efforts. Quite often, the establishment of links at the operational level, and direct communication in a more informal fashion, prove invaluable in smoothing out difficulties and preventing delays or misunderstandings. Such informal arrangements and contacts could be encouraged and strengthened, provided that they do not place in jeopardy the fundamental rights of those involved in investigations or criminal proceedings. Regular cooperation at the operational level is also a very valuable tool for preventing organized transnational crime, especially in terms of exchange of intelligence, which can prove extremely useful in preventing the expansion of criminal groups across frontiers or the diversification of their activities.

Documentation

Background document on the most effective forms of international cooperation for the prevention and control of organized transnational crime at the investigative, prosecutorial and judicial levels (E/CONF.88/4)

7. Appropriate modalities and guidelines for the prevention and control of organized transnational crime at the regional and international levels

In accordance with paragraph 1, subparagraph (d), of Economic and Social Council resolution 1993/29, the Conference is called on to consider appropriate modalities and guidelines for the prevention and control of organized transnational crime at the regional and international levels.

Bilateral agreements on mutual legal assistance and extradition constitute valuable tools in the fight against organized transnational crime. Quite frequently, however, their conclusion is prevented by considerations of a broader political context. This creates gaps in international cooperation that cannot be filled by other initiatives in international relations. At the same time, organized criminal groups are aggressively exploiting such shortcomings in order to maximize their profits. Implementation of bilateral agreements may suffer because of the lack of coordination or quick feedback from national authorities. It is well established and generally accepted that the effectiveness and efficiency of criminal justice is greatly affected when such interferences come into play.

Contemporary realities and the growth and expansion of organized transnational crime should lead to a reassessment of international cooperation in this field, as it exists at present. The operations of organized transnational crime involve, in most cases, more than two countries. The pattern that is now emerging suggests that organized criminal groups may often recruit personnel in one country, obtain the necessary material in another, operate in several others and direct their proceeds to still other countries. The confusion that such operations create among national authorities frequently makes even their detection impossible. On other occasions, when the principal activity is detected, obtaining and preserving evidence to adjudicate the case effectively may become so cumbersome that alleged offenders go unpunished.

Issues that may be of interest to the Conference include the review of traditional principles of international cooperation, such as reciprocity, dual criminality, speciality, the political offence exception,

the non-extradition of nationals and territoriality. With due regard to national concerns about sovereignty and independence in decision-making, the Conference is expected to identify strategies and techniques that would reduce obstacles in international cooperation. In so doing, the Conference may wish to consider new trends in legal theory and practice, as well as ways of according priority attention to this problem. Moreover, the Conference may wish to consider issues related to the expansion and improvement of international cooperation with a view to lessening the divergence of traditional conceptions of criminal justice, including substantive and procedural law and practice, with due respect for fundamental rights and freedoms. The Conference may wish to identify new areas of international cooperation, such as the recognition and enforcement of foreign judgements.

In order to tackle the issue of effectiveness and efficiency in international cooperation, particularly at a time when the world is undergoing very rapid changes, the Conference could consider ways and means of building on the existing modalities to take international action still further. The Conference could examine ways of consolidating and integrating international efforts, using the experience accumulated throughout the world in the application of bilateral, as well as regional or subregional cooperative arrangements.

One issue that at present appears to be central to the effectiveness of international action is the capacity of national authorities to cooperate with each other. Organized transnational crime has become considerably more sophisticated than in the past. This has strained the capacity of authorities in many countries, particularly developing ones and those in transition, to detect, investigate and adjudicate relevant cases. International cooperation is adversely affected by such shortcomings. Technical cooperation, in the form of institution building and strengthening by means of advisory services and training, aimed at improving the capacity of national authorities, is essential. Such technical cooperation would be aimed at providing knowledge and expertise and raising the level of professionalism of criminal justice personnel. Technical assistance is also required in reforming existing legislation or developing new legal frameworks to deal with contemporary activities of organized transnational crime and to improve or build appropriate institutions that would make effective international cooperation possible. The Conference could reassess existing modalities and consider new ones to improve the flow of technical assistance to countries in need in this very important field.

Documentation

Background document on appropriate modalities and guidelines for the prevention and control of organized transnational crime at the regional and international levels (E/CONF.88/5)

8. The feasibility of elaborating international instruments, including conventions, against organized transnational crime

In accordance with paragraph 1, subparagraph (e), of Economic and Social Council resolution 1993/29, the Conference is called on to consider whether it would be feasible to elaborate international instruments, including conventions, against organized transnational crime.

The attention devoted to organized transnational crime by the Commission on Crime Prevention and Criminal Justice and the follow-up action taken by legislative bodies of the United Nations, in particular the General Assembly and the Economic and Social Council, demonstrate that the matter figures prominently on the list of priorities of Member States. This stems from the realization of the impact that criminal activity of this kind has on national economies, international relations, protection of human rights, stability, security and peace, all crucial elements to growth and development.

The international community is faced with new economic and social realities that create new responsibilities and place new demands on Governments and other institutions throughout the world. International problems demand genuinely international approaches and action at the global level. International cooperation is at present more easily attainable than it was only a few years ago. The end of the cold war has brought about a dramatic improvement in international relations, while the advancement of democracy is unprecedented. The new framework of international relations is today much less affected by the old impediments resulting from traditional conceptions, which have been overtaken by recent events. In this favourable environment, in which the international community shares the same values, the Conference should provide a forum for States to express the commitment, political will and unwavering determination that are necessary to begin the process of strengthening multilateral cooperation and taking global action against organized transnational crime a step further.

There is previous experience to guide the efforts of States in that direction. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (E/CONF.82/15 and Corr.2) represented the culmination of concerted efforts by all States to combat a form of criminal activity that was rapidly growing in both dimensions and impact. The elaboration and adoption of that Convention represented a major success of the international community in improving its response to the problem. It took place in an environment less conducive to mutual understanding than the one existing today and is thus proof of the ability of the international community to smooth out its differences when circumstances demand. The Conference, building on past experience and taking advantage of the existing favourable conditions for assessing successes and failures, could set the stage for a similar undertaking.

Documentation

Background document on the feasibility of elaborating international instruments, including conventions, against organized transnational crime (E/CONF.88/6)

9. Conclusions and recommendations of the International Conference on Preventing and Controlling Money Laundering and the Use of the Proceeds of Crime: a Global Approach

The Economic and Social Council, in its resolutions 1994/12 and 1994/13, recommended that the World Ministerial Conference take into account the conclusions and recommendations of the International Conference on Preventing and Controlling Money-Laundering and the Use of the Proceeds of Crime: a Global Approach. The Conference, which was held from 18 to 20 June at Courmayeur, Italy, was organized by the International Scientific and Professional Advisory Council (ISPAC), in cooperation with the Italian Government and under the auspices of the Crime Prevention and Criminal Justice Branch of the United Nations Office at Vienna, in pursuance of Economic and Social Council resolution 1993/30.

The International Conference examined the numerous issues related to money-laundering and the control of the proceeds of crime, including the trends emerging as a consequence of the increasing demand from money-laundering services and the counter-pressures exerted by anti-money-laundering responses. It found that there was a lack of an effective and comprehensive global anti-money-laundering net, which urgently needed to be established. Concluding that a global approach would require full implementation of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the Statement of Principles of the Basel Committee on Banking Regulations and Supervisory Practices (Basel Declaration) and the 40 recommendations of the Financial Action Task Force on money-laundering, established by the heads of State or Government of the seven major industrialized countries and the President of the European Commission, the International

Conference identified a number of implementation priorities. These included criminalization of the laundering of criminal proceeds, limitation of bank secrecy, the "know your customer rule", identification and reporting of suspicious transactions, improved regulation of businesses and professionals conducting financial operations, asset forfeiture, and various mechanisms of international cooperation.

On the basis of the conclusions and recommendations of the International Conference, the World Ministerial Conference may wish to consider the modalities of improving and strengthening international cooperation in the field of prevention and control of money-laundering and the use of the proceeds of crime and removing obstacles that are created by existing perceptions and practices.

Documentation

Report and recommendations of the International Conference on Preventing and Controlling Money Laundering and the Use of the Proceeds of Crime: a Global Approach (E/CONF.88/7)

10. Conclusions and recommendations

On the recommendation of the Commission on Crime Prevention and Criminal Justice at its third session, the Economic and Social Council adopted resolution 1994/12, in which it expressed the view that the document annexed to that resolution contained elements useful for the identification of specific matters to be dealt with by the World Ministerial Conference, and was to be used as a basis for the substantive discussions of the objectives of the Conference.

The attention of the World Ministerial Conference is drawn to paragraph 11 of General Assembly resolution 48/103, in which the Assembly requested the Secretary-General to submit the conclusions and recommendation of the Conference to the Assembly at its forty-ninth session.

11. Adoption of the report

The World Ministerial Conference is to adopt a report, the draft of which will be prepared by the Rapporteur.

Notes

[1]Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: Report Prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

[2]See Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: Report Prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.

[3]See Official Records of the Economic and Social Council, 1992, Supplement No. 10 (E/1992/30),

[4]Ibid., 1993, Supplement No. 11 (E/1993/32), chap. I, sect. C. chap. I, sect. C.

Annex

PROPOSED SCHEDULE OF MEETINGS

Plenary

Monday, 21 November		
a.m.	Item 1	Opening of the Conference
	Item 2	Election of officers
	Item 3	Adoption of the agenda and organization of work (E/CONF.88/1)
	Items 4-9	General debate
p.m.	Items 4-9	Continuation of the general debate
Tuesday, 22 November		
a.m. and p.m.	Items 4-9	Continuation and conclusion of the general debate
Wednesday, 23 November		
a.m.	Item 10	Conclusions and recommendations
p.m.	Item 11	Adoption of the report

Committee of the Whole

Monday, 21 November		
p.m.	Item 10	Conclusions and recommendations
Tuesday, 22 November		
a.m. and p.m.	Item 10	Conclusions and recommendations
		Completion of the work of the Committee